APPENDIX

ORDER

(Filed July 12, 1973)

Upon consideration of the petition of Celanese Corporation and Fiber Industries, Inc. for a writ of mandamus and prohibition, and the responses thereto;

It appearing to the court that the district court did not abuse its discretion in placing the conditions upon the petitioners' access to certain documents; and it further appearing to the court that after the district court determines costs, an appeal will afford the petitioners an adequate remedy if they are dissatisfied with the costs assessed against them;

Whereupon, with the concurrence of Judge Field and Judge Widener,

It is ADJUDGED and ORDERED that the petition for a writ of mandamus and prohibition is denied.

ORDER

(Filed January 23, 1973)

Petitioners, who are not parties to the Consolidated Civil Action, which is a multi-district combination of anti-trust and patent actions in which a number of law suits are consolidated, and have been assigned to the district courts of South Carolina, pleads to have access to the records in the case. Petitioners claim to be parties in similar litigation now pending in the Southern District of Florida, the exact nature of which the court has neither the time, nor the curiosity, to ascertain. Suffice it to say, for the purposes of this motion, Petitioners have taken up the valuable time of this court, away from the ordinary business pending in the District of South Carolina, in an effort to scavenge information in the process of development of which they gave neither their time, nor their financial support. After this court had initially refused to entertain their petition because they are not parties to the action, nor have they attempted to intervene, Petitioners repaired to the United States Court of Appeals for the Fourth Circuit, in the high hope of mandamusing this court into a delay of this consolidated action (which has been pending for months, and has already taken up more than 100 days of the time of one single judge), which mandamus was for this court to make available the records, not yet made public, and the information obtained in discovery processes, particularly in the depositions which this court has been hearing in an effort to speed up this litigation, and asked to delay certain depositions which were scheduled to take place in Paris, France (and which have been taken, and the testimony transcribed), and otherwise participate, despite the fact they are not parties to the action, and, in the opinion of this court, have no standing in this court in this action.

Insofar as the official records, now in the hands of the Clerk of this Court, are concerned, except for the pleadings, and the published orders of this court, the Petitioners are denied access to the depositions, and other discovery, until such time as the case has been called for trial. This court, with a very heavy docket, and limited personnel in the Clerk's Office could be seriously hampered in the processing of this consolidated litigation if the confusion which would probably erupt, did erupt, if the Petitioners were allowed access to the files, with the harassment of the office of Clerk of this Court, and its personnel, which would inevitably follow.

After a hearing held in this matter on December 7, 1972, counsel for Petitioners made the following statement:

> MR. IRONS: I understand completely. The other way, or another way, the second way in which this type of information frequently can be obtained is through professional courtesy or cooperation of counsel involved in the suit. Now, that avenue of approach also seems to be unavailable to Celanese and Fibre Industries, Inc. in this case, and my understanding of the reason why is outstanding orders, written or oral or both of this court, which preclude either access to the court records, or which suggests that counsel should not make those same records available to us. We need these records in the prosecution of our litigation. Many of the lawyers that are in the case are also in this case, and they have that information available to them. I don't.
>
> I am quite willing to accept any kind of program which will minimize, or, perhaps, eliminate any significant interference with the progress of the case here before your Honor. I feel that if these protective orders in whatever form they may take could be modified in such a way as I have suggested in my papers to permit me and the lawyers associated

> with me in my office in the first instance to examine these records, that a substantial part of the volume of material would probably or mostly be eliminated. We would want to use it only for the purpose of prosecuting our case in Florida. I have suggested that in letters to counsel, and they have written back and said that they felt it inappropriate to enter into any stipulated agreement that your Honor should decide in the matter.

In the course of conducting the depositions in this case, this court has frequently asked counsel if some of the pursuit was not for the purposes of other litigation. Counsel have consistently assured this court that such was not the case, as this court had no intention of tolerating the use of the processes of this court to obtain information about another case, unless all the parties in that case were represented or notified. This is only fair and just.

Counsel for various parties have indicated that they have no objection to Petitioners obtaining information from those counsel who have participated in this case. Therefore the Petitioners are given this permission.

Petitioners have indicated they are willing to pay any necessary costs which may be calculated. If this is so, and Petitioners still desire to obtain the information, and remove the protective order which this court orally placed on all its depositions in the hands of the various counsel in this consolidated case, Petitioners will post with the Clerk of this Court a surety bond, in the penal sum of $50,000.00, conditioned upon their payment of such sums, to such parties, and/or the court, as the Court may determine as appropriate in view of the fact that the Petitioners have borne no expense, made no arrangements, and suffered none of the difficulties of getting to and from the depositions, and furnishing counsel to examine. One of the conditions of the bond shall be that they sub-

ject themselves to the jurisdiction of this court for the purposes of determining any amounts due, after an appropriate hearing thereon and thereabout.

If Petitioners are willing to comply with the conditions of this order as above set forth, they shall file the bond, and proceed to negotiate with the various counsel for such information as counsel may process. Petitioners are not to obtain any of the discovery material from the Office of the Clerk of Court in Greenville or Columbia.

AND IT IS SO ORDERED.

(Signed) Robert W. Hemphill
District Judge

28 U.S.C. 1651

(a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

(b) An alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction. June 25, 1948, c. 646, 62 Stat. 944; May 24, 1949, c. 139, § 90, 63 Stat. 102.

FEDERAL RULES OF CIVIL PROCEDURE

RULE 26

(a) DISCOVERY METHODS. Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes; physical and mental examinations; and requests for admission. Unless the court orders otherwise under subdivision (c) of this rule, the frequency of use of these methods is not limited.

(b) SCOPE OF DISCOVERY. Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

(1) *In general.* Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought ap-

pears reasonably calculated to lead to the discovery of admissible evidence.

(2) *Insurance agreements.* A party may obtain discovery of the existence and contents of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment wich may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment. Information concerning the insurance agreement is not by reason of disclosure admissible in evidence at trial. For purposes of this paragraph, an application for insurance shall not be treated as part of an insurance agreement.

(3) *Trial preparation: Materials.* Subject to the provisions of subdivision (b) (4) of this rule, a party may obtain discovery of documents and tangible things otherwise discoverable under subdivision (b) (1) of this rule and prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative (including his attorney, consultant, surety, indemnitor, insurer, or agent) only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of his case and that he is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the court shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation.

A party may obtain without the required showing a statement concerning the action or its subject matter previously made by that party. Upon request, a person not a party may obtain without the required showing a statement concerning the action or its subject matter

previously made by that person. If the request is refused, the person may move for a court order. The provisions of Rule 37(a)(4) apply to the award of expenses incurred in relation to the motion. For purposes of this paragraph, a statement previously made is (A) a written statement signed or otherwise adopted or approved by the person making it, or (B) a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

(4) *Trial preparation: Experts.* Discovery of facts known and opinions held by experts, otherwise discoverable under the provisions of subdivision (b)(1) of this rule and acquired or developed in anticipation of litigation or for trial, may be obtained only as follows:

(A) (i) A party may through interrogatories require any other party to identify each person whom the other party expects to call as an expert witness at trial, to state the subject matter on which the expert is expected to testify, and to state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion. (ii) Upon motion, the court may order further discovery by other means, subject to such restrictions as to scope and such provisions, pursuant to subdivision (b)(4)(C) of this rule, concerning fees and expenses as the court may deem appropriate.

(B) A party may discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or preparation for trial and who is not expected to be called as a witness at trial, only as provided in Rule 35(b) or upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery

to obtain facts or opinions on the same subject by other means.

(C) Unless manifest injustice would result, (i) the court shall require that the party seeking discovery pay the expert a reasonable fee for time spent in responding to discovery under subdivisions (b) (4) (A) (ii) and (b) (4) (B) of this rule; and (ii) with respect to discovery obtained under subdivision (b) (4) (A) (ii) of this rule the court may require, and with respect to discovery obtained under subdivision (b) (4) (B) of this rule the court shall require, the party seeking discovery to pay the other party a fair portion of the fees and expenses reasonably incurred by the latter party in obtaining facts and opinions from the expert.

(c) PROTECTIVE ORDERS. Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the court in which the action is pending or alternatively, on matters relating to a deposition, the court in the district where the deposition is to be taken may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following: (1) that the discovery not be had; (2) that the discovery may be had only on specified terms and conditions, including a designation of the time or place; (3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery; (4) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters; (5) that discovery be conducted with no one present except persons designated by the court; (6) that a deposition after being sealed be opened only by order of the court; (7) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way; (8) that the parties simul-

taneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.

If the motion for a protective order is denied in whole or in part, the court may, on such terms and conditions as are just, order that any party or person provide or permit discovery. The provisions of Rule 37(a) (4) apply to the award of expenses incurred in relation to the motion.

(d) SEQUENCE AND TIMING OF DISCOVERY. Unless the court upon motion, for the convenience of parties and witnesses and in the interests of justice, orders otherwise, methods of discovery may be used in any sequence and the fact that a party is conducting discovery, whether by deposition or otherwise, shall not operate to delay any other party's discovery.

(e) SUPPLEMENTATION OF RESPONSES. A party who has responded to a request for discovery with a response that was complete when made is under no duty to supplement his response to include information thereafter acquired, except as follows:

(1) A party is under a duty seasonably to supplement his response with respect to any question directly addressed to (A) the identity and location of persons having knowledge of discoverable matters, and (B) the identity of each person expected to be called as an expert witness at trial, the subject matter on which he is expected to testify, and the substance of his testimony.

(2) A party is under a duty seasonably to amend a prior response if he obtains information upon the basis of which (A) he knows that the response was incorrect when made, or (B) he knows that the response though correct when made is no longer true and the circum-

stances are such that a failure to amend the response is in substance a knowing concealment.

(3) A duty to supplement responses may be imposed by order of the court, agreement of the parties, or at any time prior to trial through new requests for supplementation of prior responses.

As amended Dec. 27, 1946, eff. March 19, 1948; Jan. 21, 1963, eff. July 1, 1963; Feb. 28, 1966, eff. July 1, 1966; March 30, 1970, eff. July 1, .1970.[1]

RULE 30

(a) WHEN DEPOSITIONS MAY BE TAKEN. After commencement of the action, any party may take the testimony of any person, including a party, by deposition upon oral examination. Leave of court, granted with or without notice, must be obtained only if the plaintiff seeks to take a deposition prior to the expiration of 30 days after service of the summons and complaint upon any defendant or service made under Rule 4(e), except that leave is not required (1) if a defendant has served a notice of taking deposition or otherwise sought discovery, or (2) if special notice is given as provided in subdivision (b) (2) of this rule. The attendance of witnesses may be compelled by subpoena as provided in Rule 45. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes.

(b) NOTICE OF EXAMINATION: GENERAL REQUIREMENTS; SPECIAL NOTICE; NON-STENOGRAPHIC RECORDING; PRODUCTION OF DOCUMENTS AND THINGS; DEPOSITION OF ORGANIZATION.

(1) A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action. The

notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice.

(2) Leave of court is not required for the taking of a deposition by plaintiff if the notice (A) states that the person to be examined is about to go out of the district where the action is pending and more than 100 miles from the place of trial, or is about to go out of the United States, or is bound on a voyage to sea, and will be unavailable for examination unless his deposition is taken before expiration of the 30-day period, and (B) sets forth facts to support the statement. The plaintiff's attorney shall sign the notice, and his signature constitutes a certification by him that to the best of his knowledge, information, and belief the statement and supporting facts are true. The sanctions provided by Rule 11 are applicable to the certification.

If a party shows that when he was served with notice under this subdivision (b) (2) he was unable through the exercise of diligence to obtain counsel to represent him at the taking of the deposition, the deposition may not be used against him.

(3) The court may for cause shown enlarge or shorten the time for taking the deposition.

(4) The court may upon motion order that the testimony at a deposition be recorded by other than stenographic means, in which event the order shall designate the manner of recording, preserving, and filing the deposition, and may include other provisions to assure

that the recorded testimony will be accurate and trustworthy. If the order is made, a party may nevertheless arrange to have a stenographic transcription made at his own expense.

(5) The notice to a party deponent may be accompanied by a request made in compliance with Rule 34 for the production of documents and tangible things at the taking of the deposition. The procedure of Rule 34 shall apply to the request.

(6) A party may in his notice name as the deponent a public or private corporation or a partnership or association or governmental agency and designate with reasonable particularity the matters on which examination is requested. The organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which he will testify. The persons so designated shall testify as to matters known or reasonably available to the organization. This subdivision (b) (6) does not preclude taking a deposition by any other procedure authorized in these rules.

(c) EXAMINATION AND CROSS-EXAMINATION; RECORD OF EXAMINATION; OATH; OBJECTIONS. Examination and cross-examination of witnesses may proceed as permitted at the trial under the provisions of Rule 43(b). The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically or recorded by any other means ordered in accordance with subdivision (b) (4) of this rule. If requested by one of the parties, the testimony shall be transcribed.

All objections made at time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, parties may serve written questions in a sealed envelope on the party taking the deposition and he shall transmit them to the officer, who shall propound them to the witness and record the answers verbatim.

(d) MOTION TO TERMINATE OR LIMIT EXAMINATION. At any time during the taking of the deposition, on motion of a party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which the action is pending or the court in the district where the deposition is being taken may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in Rule 26(c). If the order made terminates the examination, it shall be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order. The provisions of Rule 37(a) (4) apply to the award of expenses incurred in relation to the motion.

(e) SUBMISSION TO WITNESS; CHANGES; SIGNING. When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness

desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness within 30 days of its submission to him, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed unless on a motion to suppress under Rule 32(d)(4) the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(f) CERTIFICATION AND FILING BY OFFICER; EXHIBITS; COPIES; NOTICE OF FILING. (1) The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. He shall then securely seal the deposition in an envelope indorsed with the title of the action and marked "Deposition of [here insert name of witness]" and shall promptly file it with the court in which the action is pending or send it by registered or certified mail to the clerk thereof for filing.

Documents and things produced for inspection during the examination of the witness, shall, upon the request of a party, be marked for identification and annexed to and returned with the deposition, and may be inspected and copied by any party, except that (A) the person producing the materials may substitute copies to be marked for identification, if he affords to all parties fair opportunity to verify the copies by comparison with the originals, and (B) if the person producing the materials requests their return, the officer shall mark them, give each party an opportunity to inspect and copy them,

and return them to the person producing them, and the materials may then be used in the same manner as if annexed to and returned with the deposition. Any party may move for an order that the original be annexed to and returned with the deposition to the court, pending final disposition of the case.

(2) Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.

(3) The party taking the deposition shall give prompt notice of his filing to all other parties.

(g) FAILURE TO ATTEND OR TO SERVE SUBPONEA; EXPENSES.

(1) If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the court may order the party giving the notice to pay to such other party the reasonable expenses incurred by him and his attorney in attending, including reasonable attorney's fees.

(2) If the party giving the notice of the taking of a deposition of a witness fails to serve a subponena upon him and the witness because of such failure does not attend, and if another party attends in person or by attorney because he expects the deposition of that witness to be taken, the court may order the party giving the notice to pay to such other party the reasonable expenses incurred by him and his attorney in attending, including reasonable attorney's fees.

As amended Jan. 21, 1963, eff. July 1, 1963;[1] March 30, 1970, eff. July 1, 1970.[2]

RULE 34

(a) SCOPE. Any party may serve on any other party a request (1) to produce and permit the party making the request, or someone acting on his behalf, to inspect and copy, any designated documents (including writings, drawings, graphs, charts, photographs, phono-records, and other data compilations from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonably usable form), or to inspect and copy, test, or sample any tangible things which constitute or contain matters within the scope of Rule 26(b) and which are in the possession, custody or control of the party upon whom the request is served; or (2) to permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon, within the scope of Rule 26(b).

(b) PROCEDURE. The request may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the summons and complaint upon that party. The request shall set forth the items to be inspected either by individual item or by category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts.

The party upon whom the request is served shall serve a written response within 30 days after the service of the request, except that a defendant may serve a response within 45 days after service of the summons and complaint upon that defendant. The court may allow a shorter or longer time. The response shall state, with

respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified. The party submitting the request may move for an order under Rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.

(c) PERSONS NOT PARTIES. This rule does not preclude an independent action against a person not a party for production of documents and things and permission to enter upon land.

As amended Dec. 27, 1946, eff. March 19th, 1948;[1] March 30, 1970, eff. July 1, 1970.[2]

RULE 45

(a) FOR ATTENDANCE OF WITNESSES; FORM; ISSUANCE. Every subpoena shall be issued by the clerk under the seal of the court, shall state the name of the court and the title of the action, and shall command each person to whom it is directed to attend and give testimony at a time and place therein specified. The clerk shall issue a subpoena, or a subpoena for the production of documentary evidence, signed and sealed but otherwise in blank, to a party requesting it, who shall fill it in before service.

(b) FOR PRODUCTION OF DOCUMENTARY EVIDENCE. A subpoena may also command the person to whom it is directed to produce the books, papers, documents, or tangible things designated therein; but the court, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may (1) quash or modify the subpoena if it is unreasonable and oppressive or (2) condition denial of the motion

upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

(c) SERVICE. A subpoena may be served by the marshal, by his deputy, or by any other person who is not a party and is not less than 18 years of age. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person and by tendering to him the fees for one day's attendance and the mileage allowed by law. When the subpoena is issued on behalf of the United States or an officer or agency thereof, fees and mileage need not be tendered.

(d) SUBPOENA FOR TAKING DEPOSITIONS; PLACE OF EXAMINATION. (1) Proof of service of a notice to take a deposition as provided in Rules 30(b) and 31(a) constitutes a sufficient authoriaztion for the issuance by the clerk of the district court for the district in which the deposition is to be taken of subpoenas for the persons named or described therein. The subpoena may command the person to whom it is directed to produce and permit inspection and copying of designated books, papers, documents, or tangible things which constitute or contain matters within the scope of the examination permitted by Rule 26(b), but in that event the subpoena will be subject to the provisions of Rule 26(c) and subdivision (b) of this rule.

The person to whom the subpoena is directed may, within 10 days after the service thereof or on or before the time specified in the subpoena for compliance if such time is less than 10 days after service, serve upon the attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials except pursuant to an order of the court from which the subpoena was issued. The party serving the subpoena

may, if objection has been made, move upon notice to the deponent for an order at any time before or during the taking of the deposition.

(e) SUBPOENA FOR A HEARING OR TRIAL. (1) At the request of any party subpoenas for attendance at a hearing or trial shall be issued by the clerk of the district court for the district in which the hearing or trial is held. A subpoena requiring the attendance of a witness at hearing or trial may be served at any place within the district, or at any place without the district that is within 100 miles of the place of the hearing or trial specified in the subpoena; and, when a statute of the United States provides therefor, the court upon proper application and cause shown may authorize the service of a subpoena at any other place.

(2) A subpoena directed to a witness in a foreign country shall issue under the circumstances and in the manner and be served as provided in Title 28, U.S.C. § 1783.

(f) CONTEMPT. Failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court from which the subpoena issued. As amended Dec. 27, 1946, eff. March 19, 1948; Dec. 29, 1948, eff. Oct. 20, 1949; March 30, 1970, eff. July 1, 1970.

RULE 83

Each district court by action of a majority of the judges thereof may from time to time make and amend rules governing its practice not inconsistent with these rules. Copies of rules and amendments so made by any district court shall upon their promulgation be furnished to the Supreme Court of the United States. In all cases not provided for by rule, the district courts may regulate their practice in any manner not inconsistent with these rules.